

the Appendix to Title 5, Government Organization and Employees.

**§ 377. Repealed. Pub. L. 96-363, § 2(a), Sept. 26, 1980, 94 Stat. 1207**

Section, acts Jan. 24, 1923, ch. 42, 42 Stat. 1185; May 29, 1928, ch. 901, § 1(84), 45 Stat. 992, related to payment or deduction from trust funds, etc., of cost of determining heirs, and set forth a schedule of fees.

**CANCELLATION OF ASSESSED UNPAID FEES**

Section 2(b) of Pub. L. 96-363 provided that: "The Secretary of the Interior may cancel any unpaid fees assessed under the provisions repealed by this section [sections 375b and 377 of this title]."

**§ 378. Partition of allotment among heirs; patents**

If the Secretary of the Interior shall find that any inherited trust allotment or allotments are capable of partition to the advantage of the heirs, he may cause such lands to be partitioned among them, regardless of their competency, patents in fee to be issued to the competent heirs for their shares and trust patents to be issued to the incompetent heirs for the lands respectively or jointly set apart to them, the trust period to terminate in accordance with the terms of the original patent or order of extension of the trust period set out in said patent.

(May 18, 1916, ch. 125, § 1, 39 Stat. 127.)

**CROSS REFERENCES**

Certain lands not to be allotted in severalty to any Indian, see section 461 of this title.

**§ 379. Sale of allotted lands by heirs**

The adult heirs of any deceased Indian to whom a trust or other patent containing restrictions upon alienation has been or shall be issued for lands allotted to him may sell and convey the lands inherited from such decedent, but in case of minor heirs their interests shall be sold only by a guardian duly appointed by the proper court upon the order of such court, made upon petition filed by the guardian, but all such conveyances shall be subject to the approval of the Secretary of the Interior, and when so approved shall convey a full title to the purchaser, the same as if a final patent without restriction upon the alienation had been issued to the allottee. All allotted land so alienated by the heirs of an Indian allottee and all land so patented to a white allottee shall thereupon be subject to taxation under the laws of the State or Territory where the same is situate: *Provided*, That the sale herein provided for shall not apply to the homestead during the life of the father, mother or the minority of any child or children.

(May 27, 1902, ch. 888, § 7, 32 Stat. 275.)

**CROSS REFERENCES**

Allotments of deceased Indians located within limits of National Forest in Minnesota may be relinquished by the heirs to the United States, see act May 23, 1908, ch. 193, § 3, 39 Stat. 271.

Certain lands not to be allotted in severalty to any Indian, see section 461 of this title.

**§ 380. Lease of inherited allotments by superintendent**

Restricted allotments of deceased Indians may be leased, except for oil and gas mining pur-

poses, by the superintendents of the reservation within which the lands are located (1) when the heirs or devisees of such decedents have not been determined and (2) when the heirs or devisees of the decedents have been determined, and such lands are not in use by any of the heirs and the heirs have not been able during a three-months' period to agree upon a lease by reason of the number of the heirs, their absence from the reservation, or for other cause, under such rules and regulations as the Secretary of the Interior may prescribe. The proceeds derived from such leases shall be credited to the estates or other accounts of the individuals entitled thereto in accordance with their respective interests.

(July 8, 1940, ch. 554, 54 Stat. 745.)

**TRANSFER OF FUNCTIONS**

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

**CROSS REFERENCES**

Navajo and Hopi Indians, lease of restricted allotments of deceased Indians in connection with rehabilitation program, by persons prescribed in this section, see section 635 of this title.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 403c, 415a, 416c, 635 of this title.

**CHAPTER 11—IRRIGATION OF ALLOTTED LANDS**

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**§ 381. Irrigation lands; regulation of use of water**

In cases where the use of water for irrigation is necessary to render the lands within any In-

dian reservation available for agricultural purposes, the Secretary of the Interior is authorized to prescribe such rules and regulations as he may deem necessary to secure a just and equal distribution thereof among the Indians residing upon any such reservations; and no other appropriation or grant of water by any riparian proprietor shall be authorized or permitted to the damage of any other riparian proprietor.

(Feb. 8, 1887, ch. 119, § 7, 24 Stat. 390.)

#### CROSS REFERENCES

Cancellation of trust patents within power or reservoir sites, see section 352 of this title.

Irrigation projects under Reclamation Act to be carried on under such arrangements and agreements as Secretary of Interior deems for best interests of the Indians, see section 382 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 332, 333, 334, 335, 339, 340, 341, 342, 348, 349, 350, 352b, 354, 358 of this title.

### § 382. Irrigation projects under Reclamation Act

In carrying out any irrigation project which may be undertaken under the provisions of the Reclamation Act, and which may make possible, and provide for in connection with the reclamation of other lands, the irrigation of all or any part of the irrigable lands heretofore included in allotments made to Indians under section 334 of this title, the Secretary of the Interior is authorized to make such arrangement and agreement in reference thereto as said Secretary deems for the best interest of the Indians: *Provided*, That no lien or charge for construction, operation, or maintenance shall thereby be created against any such lands.

(Mar. 3, 1909, ch. 263, 35 Stat. 798.)

#### REFERENCES IN TEXT

The Reclamation Act, referred to in text, is act June 17, 1902, ch. 1093, 32 Stat. 388, as amended, which is classified generally to chapter 12 (§ 371 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 371 of Title 43 and Tables.

#### CODIFICATION

A further proviso authorized the expenditure of a limited amount from the appropriation in the act for irrigation, to meet the cost of carrying out this section, and was omitted as temporary.

#### SIMILAR PROVISIONS

Similar provisions were contained in act Apr. 30, 1908, ch. 153, 35 Stat. 85.

### § 383. Repealed. Pub. L. 97-293, title II, § 224(f), Oct. 12, 1982, 96 Stat. 1273

Section, act Aug. 4, 1910, ch. 140, § 1, 36 Stat. 270, provided that no new irrigation project on any Indian reservation, allotments, or lands, could be undertaken until it had been estimated for and a maximum limit of cost ascertained from surveys, plans, and reports submitted by chief irrigation engineer in Indian Service and approved by Commissioner of Indian Affairs and Secretary of the Interior, that such limit of cost could in no case be exceeded without express authorization of Congress, and that no project to cost in the aggregate to exceed \$35,000 could be undertaken on any Indian reservation or allotment, without specific authority of Congress.

### § 384. Employment of superintendents of irrigation

The Commissioner of Indian Affairs, under the direction of the Secretary of the Interior, may employ superintendents of irrigation who shall be skilled irrigation engineers, not to exceed seven in number.

(Apr. 4, 1910, ch. 140, § 1, 36 Stat. 271.)

#### TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

### § 385. Maintenance charges; reimbursement of construction costs; apportionment of cost

For lands irrigable under any irrigation system or reclamation project the Secretary of the Interior may fix maintenance charges which shall be paid as he may direct, such payments to be available for use in maintaining the project or system for which collected: *Provided further*, That all moneys expended under this provision shall be reimbursable where the Indians have adequate funds to repay the Government, such reimbursements to be made under such rules and regulations as the Secretary of the Interior may prescribe: *Provided further*, That the Secretary of the Interior is authorized and directed to apportion the cost of any irrigation project constructed for Indians and made reimbursable out of tribal funds of said Indians in accordance with the benefits received by each individual Indian so far as practicable from said irrigation project, said cost to be apportioned against such individual Indian under such rules, regulations, and conditions as the Secretary of the Interior may prescribe.

(Apr. 4, 1910, ch. 140, §§ 1, 3, 36 Stat. 270, 272; Aug. 1, 1914, ch. 222, § 1, 38 Stat. 583; Aug. 7, 1946, ch. 770, § 1(8), 60 Stat. 867; Oct. 12, 1982, Pub. L. 97-293, title II, § 224(f), 96 Stat. 1273.)

#### CODIFICATION

Section is based on sections 1 and 3 of act Apr. 4, 1910, and section 1 of act Aug. 1, 1914.

A provision in act Aug. 1, 1914, appropriated a specific sum for the construction, repair, etc., of ditches, reservoirs, etc., and for the pay of designated officials and employees.

#### AMENDMENTS

1982—Pub. L. 98-293 struck out provisions requiring Secretary of the Interior to transmit annual cost accounts to Congress of all moneys expended on each irrigation project.

1946—Act Aug. 7, 1946, discontinued provisions requiring Secretary of the Interior to transmit annual cost accounts to Congress of all moneys expended on each irrigation project.

### § 385a. Irrigation projects; deposit of assessments as trust fund; disposition of fund

Effective August 7, 1946, collections made from water users on each Indian irrigation project on account of assessments levied to meet the cost of operating and maintaining such project shall